



[3410-11-P]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Publicly Managed Recreation Opportunities, Recreation Fees

RIN 0596-AD09

**AGENCY:** Forest Service, USDA

**ACTION:** Notice of issuance of final directive.

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**SUMMARY:** The Forest Service is issuing a final directive providing direction on recreation fees in chapter 30 of new Forest Service Handbook (FSH) 2309.13. This chapter enumerates the requirements for recreation fees charged by the Forest Service under the Federal Lands Recreation Enhancement Act (REA) (16 U.S.C. 6801-6814), which was enacted December 8, 2004. This chapter replaces the Forest Service's interim implementation guidelines on REA and obsolete direction on recreation fees in FSM 2330.

**DATES:** This final directive is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

**FOR FURTHER INFORMATION CONTACT:** Chris Hartman,  
*chartman01@fs.fed.us*, 202-205-1227.

### SUPPLEMENTARY INFORMATION:

#### Background and Need for the Final Directive

REA authorizes the Federal land management agencies, including the Forest Service, to charge several types of recreation fees and to invest the recreation fees at the sites and areas where they were collected to enhanced facilities and services provided to

visitors. REA replaced the recreation fee authority under section 4 of the Land and Water Conservation Fund Act (16 U.S.C. 460l-6a) and the Recreational Fee Demonstration Program statute (Pub. L. 104-134, § 315).

On April 25, 2005, the Forest Service issued *Federal Lands Recreation Enhancement Act (REA): Forest Service Interim Implementation Guidelines* (Guidelines). The statutory direction in REA has been appropriately integrated into administration of the Forest Service's Recreation Fee Program under the Guidelines.

This final directive, which replaces the Guidelines, formalizes direction on REA by incorporating it into the Forest Service's Directive System. The final directive incorporates without interpretation the requirements in REA and therefore was not subjected to public comment. Formalizing direction on these requirements will assist Forest Service employees who administer the Recreation Fee Program. The final directive will be available to the public online at <http://www.fs.fed.us/im/directives>.

## **Regulatory Certifications**

### **Environmental Impact**

This final directive will incorporate without interpretation the requirements in REA into the Forest Service's Directive System. Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The Agency has concluded that this final directive falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

## **Regulatory Impact**

This final directive has been reviewed under USDA procedures and Executive Order (E.O.) 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that this final directive is not significant. The final directive will not have an annual effect of \$100 million or more on the economy, nor will it adversely affect productivity, competition, jobs, the environment, public health and safety, or State or local governments. The final directive will not interfere with an action taken or planned by another agency, nor will it raise new legal or policy issues. Finally, the final directive will not alter the budgetary impact of entitlement, grant, or loan programs or the rights and obligations of beneficiaries of those programs. Accordingly, this final directive is not subject to OMB review under E.O. 12866.

The Agency has considered this final directive in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). The Agency has determined that this final directive will not have a significant economic impact on a substantial number of small entities as defined by the act because the final directive will not impose record-keeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market. The final directive will formalize direction on the Forest Service's authority to charge recreation fees to the public and will have no direct effect on small businesses.

## **No Takings Implications**

The Agency has analyzed this final directive in accordance with the principles and criteria contained in E.O. 12630. The Agency has determined that this final directive does not pose the risk of a taking of private property.

## **Civil Justice Reform**

The Agency has reviewed this final directive under E.O. 12988 on civil justice reform. After adoption of this final directive, (1) all State and local laws and regulations that conflict with this final directive or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final directive; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

## **Unfunded Mandates**

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), the Agency has assessed the effects of this final directive on State, local, and Tribal governments and the private sector. This final directive will not compel the expenditure of \$100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

## **Federalism and Consultation and Coordination with Indian Tribal Governments**

The Agency has considered this final directive under the requirements of E.O. 13132 on federalism and has determined that the final directive conforms with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary.

Moreover, this final directive does not have Tribal implications as defined by E.O. 13175, “Consultation and Coordination with Indian Tribal Governments,” and therefore advance consultation with Tribes is not required.

### **Energy Effects**

This final directive has been reviewed under E.O. 13211 of May 18, 2001, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.” The Agency has determined that this final directive does not constitute a significant energy action as defined in the E.O.

### **Controlling Paperwork Burdens on the Public**

This final directive does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: November 26, 2013.  
Thomas L. Tidwell,  
Chief,  
U. S. Forest Service.

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